IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

GERALD R. MILLER, Trustee of the   )
Bankruptcy Estate of Jimmy Morris,   )
)
                Plaintiff,   )
)
v.   )   Case No. CIV-06-1008-D
)
LOVE'S TRAVEL STOPS &   )
COUNTRY STORES, INC.,   )
)
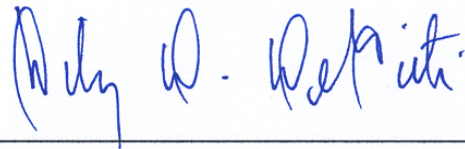   Defendant.   )

O R D E R

Before the Court is Defendant's Sixth Motion *In Limine* [Doc. No. 91], by which it seeks to

exclude evidence and argument regarding Plaintiff's allegations that Defendant delayed payment

of his final paycheck and that unidentified employees of Defendant laughed at Plaintiff when he

requested his check.   Defendant asserts these allegations are irrelevant to the trial issues on

Plaintiff's age discrimination claims, and any relevance would be unduly prejudicial and would

confuse the jury, thus warranting exclusion of this evidence under Fed. R. Evid. 403.   Plaintiff has

responded in opposition to the Motion, arguing that his testimony regarding these alleged facts is

highly relevant to damages issues and no unfair prejudice to Defendant would result from its

admission.

The Court agrees with Plaintiff regarding the relevance of evidence of a delay in payment

and alleged embarrassment caused by employees in Defendant's corporate offices in connection with

his termination.   This evidence is relevant to Plaintiff's compensatory damages under his theory of

the case, which is that he was a victim of company-wide age discrimination and that his termination

caused financial hardship and emotional injury.   Also, Defendant has failed to persuade the Court

that the probative value of Plaintiff's proposed evidence is <u>substantially outweighed</u> by the danger

of unfair prejudice or jury confusion. Thus, the Court declines to rule in advance of trial that

Plaintiff's proposed evidence regarding his alleged treatment with regard to his final paycheck is

inadmissible.

IT IS THEREFORE ORDERED that Defendant's Sixth Motion *In Limine* [Doc. No. 91] is

DENIED.

IT IS SO ORDERED this 8th day of May, 2008.

_____
TIMOTHY D. DeGIUSTI
UNITED STATES DISTRICT JUDGE